

### REMARKS

Claims 1-8, 10-25, 67-73, and 83-87 are pending in this application. Claims 1, 10, 20-24, 67, 70 and 71 have been currently amended to remove limitations not considered necessary for patentability of the claims over the art relied upon by the Examiner. Claims 11, 12, 15-17 and 19 have been amended to clarify antecedent basis. Claims 74-82 have been canceled to place the application in better condition for allowance or appeal. Claims 83, 84 and 87 have been added to claim subject matter of the limitations removed from Claims 1, 10 and 20. An amendment to FIG.-1a of the Drawing has been proposed. It is respectfully submitted that no new matter has been added. In particular, support for newly added claims 83, 85 and 87 is found in the specification at page 10, lines 10-15. Support for newly added claim 84 is found in the specification at page 6, lines 25-29, and at page 14, lines 5-9. Support for newly added claim 86 is found in the specification at page 6, line 6. Support for the proposed amendment to the Drawing is found in the specification from page 9, line 25 through page 10, line 13.

### Election/Restrictions

The Examiner states that newly submitted claims 74-82 are directed to an invention that is independent or distinct from the invention originally claimed, and has withdrawn claims 74-82 from consideration as being directed to a non-elected invention. Claims 74-82 have been cancelled.

### Claim Rejections Under 35 U.S.C. §103(a)

Prior to addressing the Examiner's rejections of specific claims, it is noted that on three occasions, specifically, the Office Actions mailed February 18, 2004, August 18, 2004 and December 2, 2004, the Examiner stated that:

...Takehana et al. disclose a fluid dispensing shoe which dispenses a fluid to both containers and caps located in holding arms and then applied by wiper 9 (see figure 2).

Despite Applicants' arguments that Takehana et al., as understood, lacks the teaching of dispensing a fluid into both containers and caps, the Examiner has not further explained his position. The Examiner is respectfully reminded that under 37 CFR 1.104(c)(2):

When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied upon must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

In the event the Examiner maintains his rejections on the basis of Takehana et al., the Examiner is respectfully requested to particularly point out, with reference to FIG. 2 of Takehana et al., how Takahana et al. specifically teaches dispensing a fluid to both containers and caps.

The Examiner has rejected claims 67-68 and 70-73 under 35 U.S.C. §103(a) as being unpatentable over Taggart (U.S. Patent No. 6,475,435) in view of Takehana et al. (U.S. Patent No. 4,888,936). The Examiner states that Taggart discloses an apparatus and method for sterile packaging comprising fluid manifold 126; fluid shoe 150; wiper 216; pair of roller arms for holding caps (figures 10-13). The Examiner further states that manifold 126 and shoe 150 are in communication with each other and the other sterile air dispensers in the sterile tunnel 90. The Examiner additionally states that the fluid manifold 126 dispenses a hot sterile vapor (hydrogen peroxide solution), which is later dried by hot sterile air out of shoe 150. The Examiner concedes, however, that the fluid shoe of Taggart does not provide a fluid to the caps, but asserts that Takehana et al. disclose a fluid dispensing shoe which dispenses a fluid to both containers and caps located in holding arms and then applied by wiper 9, referring to figure 2. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to use the teachings of Takehana et al. in the invention to Taggart for applying caps to bottles in a sterile manner.

The Examiner's rejection of claims 67-68 and 70-73 is respectfully traversed. As understood, Takehana et al. does not teach or suggest injecting a first fluid into a container AND a second fluid into at least one of a plurality of caps following said injection of the first fluid as set forth in claims 67-68 and 70-73. With reference to both FIGS. 1 and 2 of Takehana et al., Takehana et al. at column 3, lines 8-10, states:

A nozzle ejects a stream of a non-oxidizing gas into the bottles immediately ahead of the cap release.

Then at column 4, lines 35-38, Takehana et al. teaches:

As mentioned previously the nozzle D is situated such that it can eject the non-oxidizing gas toward the head space of the bottle.

Furthermore, at column 2, lines 18-21, Takehana et al. states that:

It is preferred that after purge with the non-oxidizing gas, the cap should be applied onto the threaded mouth within about 0.01 to 0.05 second.

Applicants' invention, as set forth in currently amended claims 67-68 and 70-73 overcomes the problems inherent in the apparatus disclosed by Takehana et al. More specifically, as recited by Applicants at page 6, lines 12-16:

The chute end subassembly of the present invention may also inject a non-oxygen bearing fluid not only directly into the containers but also indirectly into the containers. This indirect injection may be achieved by injecting the fluid into the caps, and then deflecting the fluid from the caps and into the containers.

It is therefore respectfully submitted that claims 67-68 and 70-73 are patentable over Taggart in view of Takehana et al.

The Examiner has also rejected claims 1-8, 10-25 and 69 under 35 U.S.C. §103(a) as being unpatentable over Taggart in view of Takehana et al. and further in view of newly cited reference Van Den Akker et al. (U.S. Patent No. 5,758,476). The Examiner states that in response to the traversal of Official Notice previously asserted by the Examiner, Van Den Akker et al. directly disclose a capper with rotatably mounted arms 30. The Examiner further states that the holding arms of Takehana et al. do not seem to be rotatably affixed to the frame, however, securing positioning arms in a rotatable configuration would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Van Den Akker et al. in the modified invention to Taggart in order to secure the caps on the containers.

Independent claims 1, 10 and 20 have been currently amended to remove the limitation of "rotatably affixed to the frame" since it is believed that this limitation is not necessary for patentability of the claims 1-8 and 10-25 over the art relied upon by the Examiner. Dependent claim 69 has not been currently amended.

The Examiner's rejection of claims 1-8, 10-25 and 69 are respectfully traversed. More specifically, in regard to independent claim 1, as understood Takehana et al. does not teach or suggest injecting a first fluid into a container AND a second fluid into an open side of at least one of a plurality of caps and said container following said injection of the first fluid as set forth in independent claim

1. In regard to independent claim 10, as understood Takehana et al. does not teach or suggest injection a first fluid into a plurality of containers AND dispensing a second fluid into a plurality of caps and plurality of containers. In regard to independent claim 20, as understood Takehana et al. does not teach or suggest injecting gas into a plurality of containers AND injecting the gas into a plurality of caps. In regard to dependent claim 69, which depends directly from independent claim 67, Takehana et al. does not teach or suggest injecting a first fluid into said container AND injecting a second fluid into at least one of a plurality of caps following said injection of said first fluid.

### **Conclusion**

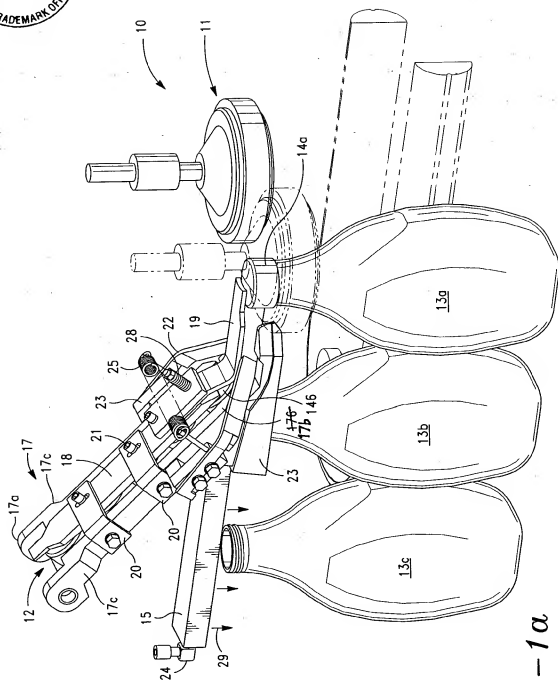
It is respectfully submitted that claims 1-8, 10-25, 67-73, and 83-87 are in condition for allowance. Applicants respectfully request entry of the above amendments, reconsideration and allowance of claims 1-8, 10-25, 67-73 and 83-87. In the event the Examiner wishes to discuss any aspect of this response, the Examiner is respectfully requested to contact Applicants' attorney at the telephone number listed below.

The Commissioner of Patents is hereby authorized to charge any additional fees that may be required in connection with the filing of this paper, to Deposit Account No. 03-2270. A duplicate copy of this authorization is attached hereto.

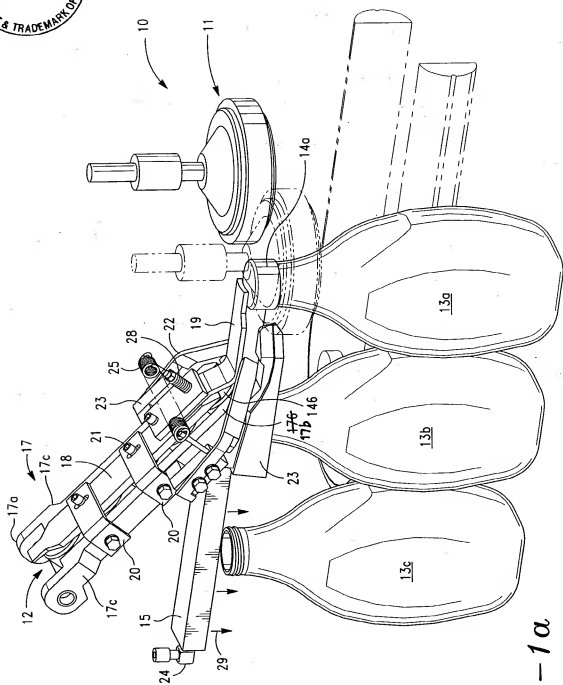
Respectfully submitted,

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## Annotated Sheet



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